

Toxic Substances Control Act



Potential Impacts of TSCA Reform

TSCA Related Headlines



EPA Photo archives, July 1972

November 28, 1973: EPA Requires Phase-Out of Lead in All Grades of Gasoline

July 10, 1975: Quarles Testifies on the Need for Toxic Substances Act

October 21, 1976: Train Sees New Toxic Substances Law as "Preventive Medicine"

February 10, 1981: EPA Incinerator Approvals to Speed PCB Disposal

May 24, 1982: EPA Announces Rule Requiring Schools to Test for Asbestos

October 23, 1986: Signing of Asbestos Hazard Emergency Response Act

October 28, 1988: Indoor Radon Abatement Act of 1988

June 22, 2016: Frank R. Lautenberg Chemical Safety for the 21st Century Act

Lautenberg Chemical Safety for the 21st Century Act - signed June 22, 2016



Public Law 114–182
114th Congress

An Act

June 22, 2016
[H.R. 2576]

To modernize the Toxic Substances Control Act, and for other purposes.

*Be it enacted by the Senate and House of Representatives of
the United States of America in Congress assembled,*

Frank R.
Lautenberg
Chemical Safety
for the 21st
Century Act.
15 USC 2601
note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Frank R. Lautenberg Chemical Safety for the 21st Century Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Lautenberg Chemical Safety for the 21st Century Act - signed June 22, 2016

- EPA must establish a risk-based screening process for identifying high or low priority chemicals for safety assessment within one year of passing the Act.
- Initial list of 10 high-priority and 10 low-priority chemicals
- Propose actions to be taken regarding these chemicals by June 22, 2019
- Total of 20 high-priority and 20 low-priority chemicals within 3 years of developing the screening process
- Total of 25 chemicals to each category by 5-year mark

First Ten Chemicals to Evaluate

- ✓ 1,4-Dioxane
- ✓ 1-Bromopropane
- ✓ Asbestos
- ✓ Carbon Tetrachloride
- ✓ Cyclic Aliphatic Bromide Cluster (HBCD)
- ✓ Methylene Chloride (MCL)
- ✓ N-methylpyrrolidone (NMP)
- ✓ Pigment Violet 29
- ✓ Tetrachloroethylene, also known as perchloroethylene
- ✓ Trichloroethylene

Lautenberg Chemical Safety for the 21st Century Act - signed June 22, 2016

- Must evaluate chemicals for “unreasonable risk” of exposure under its conditions of use
- Excludes consideration of costs and other non-risk factors when evaluating unreasonable risk
- Determination that a chemical does not present an unreasonable risk is reviewed as closely as a determination that a chemical does present an unreasonable risk
- Restrictions must be imposed that are sufficient to protect “potentially exposed or susceptible subpopulations,” not just general population as a whole

Lautenberg Chemical Safety for the 21st Century Act - signed June 22, 2016

EPA no longer must choose the “least burdensome” way of addressing risk posed by a chemical, but proposed restrictions must consider “to the extent practicable”:

- benefits of the chemical
- economic consequences
- whether reasonable substitutes are available for chemicals that are to be banned or phased out

But...

Required considerations do not override requirements for restrictions to the extent necessary so that the chemical *no longer presents an unreasonable risk, without consideration of costs and other non-risk factors*

Lautenberg Chemical Safety for the 21st Century Act - signed June 22, 2016

Manufacture and sale of a new chemical can only start:

- ✓ once EPA finds it is not likely to present an unreasonable risk
- or
- ✓ manufacturer is in compliance with restrictions EPA imposes to protect against risks



EPA Photo archives, May 1972

Lautenberg Chemical Safety for the 21st Century Act - signed June 22, 2016

- Closer scrutiny of new CBI claims and EPA must reaffirm any CBI claims on chemicals already in inventory
- EPA may collect fees for both new and existing chemicals, companies must pay 100% of the costs of risk evaluation they request and 50% of costs for chemicals already on EPA's work plan.
- The new maximum penalty for TSCA violations is \$37,500 per day, per violation. This was increased for inflation in January 2017 to \$38,114 per day, per violation.



Update on Implementation of 2016 TSCA Amendment

Margaret Richards
2017 MECC

Top 10 List...

EPA announced the first 10 chemicals it will evaluate for potential risks to human health and the environment under TSCA reform:

1. 1,4-Dioxane
2. 1-Bromopropane
3. Asbestos
4. Carbon Tetrachloride
5. Cyclic Aliphatic Bromide Cluster
6. Methylene Chloride
7. N-methylpyrrolidone
8. Pigment Violet 29
9. Tetrachloroethylene, also known as perchloroethylene
10. Trichloroethylene

Top 10 List...

- EPA has 3 years (Thursday, December 19, 2019) to complete risk evaluations for these 10 chemicals
- For other chemicals – EPA must establish a risk-based prioritization process (high/low priority) to determine which chemicals will be evaluated.

Impact of New Administration?

- Scott Pruitt, EPA Administrator, has backed the amendments to TSCA...
 - Pruitt wrote the law “guarantees protection of the most vulnerable by placing emphasis on the effects of exposure to chemicals on infants, children, pregnant women, workers and the elderly.”
 - “Public dissemination of information about chemicals is critical to ensure public health and safety is upheld.”

(April 9, 2015 letter)





E. SCOTT PRUITT
ATTORNEY GENERAL

2015 APR 16 PM 2:27

April 9, 2015

The Honorable James Inhofe
Chair, Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Barbara Boxer
Ranking Member, Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, DC 20510

Re: **Support for the Frank R. Lautenberg Chemical Safety for the 21st Century Act**

Dear Chairman Inhofe and Ranking Member Boxer:

On March 17, 2015, several attorneys general wrote to express their support for S. 697, The Frank R. Lautenberg Chemical Safety for the 21st Century Act (the "Act"). This Act will reform the Toxic Substances Control Act ("TSCA"). The TSCA has not been substantively amended since its passage in 1976. I write to you today to echo their sentiments and share my thoughts on the measure.

between a company's confidential business information (CBI) claim and informing the public about a particular chemical's risks.

As a defender of the primary role given to states under environmental law, I commend Senators David Vitter and Tom Udall for ensuring states have a voice at the table. We cannot allow for a one-size fits all approach on this matter, as each state has a variety of factors that make their environmental regulations unique. Giving states the ability to preemptively apply for a waiver in order to address local conditions, even when the EPA has already made a determination on a chemical, is essential. In addition, when EPA has not provided review to certain chemicals, it is vital that states retain the authority to regulate, as needed.

All of these changes will guarantee that EPA is balancing the interests of multiple stakeholders while making significant improvements to chemicals management and regulation. S. 697 will help EPA establish a consistent, national chemical regulatory program, while still preserving Oklahoma's ability to

I encourage your committee to quickly consider the measure.

Sincerely,


E. Scott Pruitt
Attorney General of Oklahoma

review will strengthen the standard for the public health and our environment. S. 697 guarantees protection of the most vulnerable by placing emphasis on the effects of exposure to chemicals on infants, children, pregnant women, workers, and the elderly.

existing chemicals, including those grandfathered under TSCA, receive an EPA safety review. Such review will strengthen the standard for the public health and our environment. S. 697 guarantees protection of the most vulnerable by placing emphasis on the effects of exposure to chemicals on infants, children, pregnant women, workers, and the elderly.

Public dissemination of information about chemicals is critical to ensure public health and safety is upheld. S. 697 clarifies the restrictions on public dissemination by establishing a common sense balance

Public dissemination of information about chemicals is critical to ensure public health and safety is upheld. S. 697 clarifies the restrictions on public dissemination by establishing a common sense balance

Impact of New Administration?

- Scott Pruitt, EPA Administrator, has backed the amendments to TSCA...
 - At his nomination hearing before the Senate Environment and Public Works Committee on Jan. 18 Pruitt testified implementing the amended TSCA is absolutely a priority.
 - He also stated the EPA must make managing certain chemicals, such as perfluorooctanoic acid, a priority.





What's Next?

Actions Expected in 2017:

April 2017

- Publication of inventory of mercury supply, use, and trade in the US. (Filed in Federal Register on March 29, 2017, Vol. 82, No. 59, pgs. 15522-15523).

June 2017

- Promulgate procedural rules establishing prioritization and risk evaluation processes and criteria.
- Promulgate inventory reset reporting rule.
- Establish the Science Advisory Committee on Chemicals.
- Issue guidance document for interested persons to use in preparing draft risk evaluations.
- Issue scope documents for the ten risk evaluation chemicals.
- Complete EPA consultation with the Small Business Administration.

What's Next?

Amended TSCA requires the EPA to issue three fundamental implementation rules by June:

1. Update the TSCA inventory to distinguish between chemicals made, sold, or used during the last 10 years and chemicals that have been in commerce but now aren't;
2. Review the chemicals in commerce and determine which need to have potential risks from their health effects and exposures evaluated; and
3. Evaluate those risks.

The fee rule which would establish the fees chemical manufacturers and processors would pay to help the EPA recoup its chemical oversight costs does not have a statutory deadline.

EPA must have at least 20 ongoing risk evaluations by the end of 2019.

QUESTIONS?